

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DEREK L. BLANKS.

Petitioner,

V.

PAT GLEBE,

Respondent.

Case No. C10-5117RJB/JRC

ORDER DENYING APPOINTMENT OF
COUNSEL AND DENYING AN
EVIDENTIARY HEARING AT THIS
TIME

The underlying Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 has been referred to United States Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b) (1) (A) and 636 (b) (1) (B), and Local Magistrate Judge's Rule MJR3 and MJR4.

Before the court are two motions filed by petitioner. He asks that counsel be appointed (Dkt. # 6) and that an evidentiary hearing be held (Dkt. # 7).

The court will consider the petition and reply after the noting date of June 18, 2010. After consideration of the documents filed, the court will determine whether counsel should be appointed or a hearing should be conducted. The court will not order an evidentiary hearing at this time. The motion for an evidentiary hearing is DENIED.

There is no right to have counsel appointed in cases brought under 28 U.S.C. § 2254, unless an evidentiary hearing is required or such appointment is “necessary for the effective

utilization of discovery procedures.” McCleskey v. Zant, 499 U.S. 467, 495 (1991); United States v. Duarte-Higareda, 68 F.3d 369, 370 (9th Cir. 1995); United States v. Angelone, 894 F.2d 1129, 1130 (9th Cir. 1990); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983); Rules Governing Section 2254 Cases in the United States District Courts 6(a) and 8(c). The court also may appoint counsel “at any stage of the case if the interests of justice so require.” Weygandt, 718 F.2d at 754. In deciding whether to appoint counsel, the court “must evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues involved.” Id. Petitioner has done an adequate job of setting forth his claims in the petition. The respondent has filed a response and the petition will be ready for consideration on June 18, 2010. Therefore, the court will consider petitioner’s requests once the time for filing any remaining pleadings has passed. The motion to appoint counsel is DENIED at this time.

DATED this 2nd day of June, 2010.



J. Richard Creatura
United States Magistrate Judge